

(e) A dairy farmer who is a governmental agency that is operating an exempt distributing plant under § 1001.8(e)(2);

(f) A dairy farmer with respect to salvage product assigned under § 1001.44(a)(7)(ii);

(g) A dairy farmer with respect to milk that is excluded from producer milk under § 1001.15; or

(h) A dairy farmer with respect to milk that a handler causes to be moved from the dairy farmer's farm to a regulated plant under another Federal order if any portion of such dairy farmer's milk so moved is assigned to Class I milk under the provisions of such other order and all of the dairy farmer's milk so moved is considered as producer milk under the other order.

[41 FR 8357, Feb. 26, 1976, as amended at 56 FR 5311, Feb. 11, 1991]

**§ 1001.13 Producer milk.**

*Producer milk* means milk that the handler has received from producers. The quantity of milk received by a handler from producers shall include any milk of a producer that was not received at any plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month. Such milk shall be considered as having been received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month, except that in the case of a cooperative association in its capacity as a handler under § 1001.9(d), the milk shall be considered as having been received at a plant in the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of the milk of the cooperative association in such capacity was moved during the current month or the most recent month.

**§ 1001.14 Other source milk.**

*Other source milk* means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1001.40(b)(1) from any source other

than producers, handlers described in § 1001.9(d), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1001.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1001.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1001.40(b)(1)) for which the handler fails to establish a disposition.

[56 FR 5311, Feb. 11, 1991]

**§ 1001.15 Diverted milk.**

*Diverted milk* means milk, other than that excluded under § 1001.12 from being considered as received from a producer, that meets the conditions set forth in paragraph (a) or (b) of this section and is not excluded from diverted milk under paragraph (c) of this section.

(a) Milk that a handler in its capacity as the operator of a pool plant reports as having been moved from a dairy farmer's farm to the pool plant, but which the handler caused to be moved from the farm to another plant, if the handler specifically reports such movement to the other plant as a movement of diverted milk, and the conditions of paragraph (a) (1) or (2) of this section have been met. Milk that is diverted milk under this paragraph shall be considered to have been received at the pool plant from which it was diverted, but for pricing purposes the location adjustments for the zone location specified in § 1001.53 shall be used.

(1) During any 2 months subsequent to July of the preceding calendar year, or during the current month, on more than half of the days on which the handler caused milk to be moved from the dairy farmer's farm during the month, all of the milk that the handler caused to be moved from that farm was physically received as producer milk at the handler's pool plant or at another of the handler's pool plants that is no longer operated as a plant.

(2) During the current month and not more than 5 other months subsequent to July of the preceding calendar year, milk from the dairy farmer's farm was received at or diverted from the handler's pool plant as producer milk, and during the current month all of the milk from that farm that the handler reported as diverted milk was moved from the farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant in accordance with the preceding provisions of this paragraph.

(b) Milk that a cooperative association in its capacity as a handler under §1001.9(d) caused to be moved from a dairy farmer's farm to a nonpool plant if the association specifically reports the movement to such plant as a movement of diverted milk, and the conditions of paragraph (b) (1) or (2) of this section have been met. Milk that is diverted under this paragraph shall be considered to have been received by the cooperative association in its capacity as a handler under §1001.9(d), but for pricing purposes the location adjustments for the zone location specified in §1001.53 shall be used.

(1) During any 2 months subsequent to July of the preceding calendar year, or during the current month, on more than half of the days on which the cooperative association in its capacity as a handler under §1001.9(d) caused milk to be moved from the farm as producer milk during the month, all of the milk that the association caused to be moved from the farm was physically received at a pool plant.

(2) During the current month and not more than 5 other months subsequent to July of the preceding calendar year, the cooperative association in its capacity as a handler under §1001.9(d) caused milk to be moved from the dairy farmer's farm as producer milk, and during the current month all of the milk from that farm that the cooperative association in its capacity as a handler under §1001.9(d) reported as diverted milk was moved from the farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted by the association

in accordance with the preceding provisions of this paragraph.

(c) Milk moved, as described in paragraphs (a) and (b) of this section, from dairy farmers' farms to nonpool plants in excess of 35 percent in the months of September through November and 45 percent in other months, of the total quantity of producer milk received (including diversions) by the handler during the month shall not be diverted milk. Such milk, and any other milk reported as diverted milk that fails to meet the requirements set forth in this section, shall be considered as having been moved directly from the dairy farmers' farms to the plant of physical receipt, and if that plant is a nonpool plant the milk shall be excluded from producer milk. If the handler fails to designate the dairy farmers whose milk is to be so excluded, the entire quantity of milk that the handler caused to be moved from dairy farmers' farms directly to nonpool plants during the month shall be excluded from producer milk.

[41 FR 8357, Feb. 26, 1976, as amended at 43 FR 17460, Apr. 25, 1978; 46 FR 58642, Dec. 3, 1981; 56 FR 5311, Feb. 11, 1991]

#### § 1001.16 Exempt milk.

*Exempt milk* means:

(a) Fluid milk products received at a pool plant in bulk from a nonpool plant to be processed and packaged, for which an equivalent quantity of packaged fluid milk products is returned to the operator of the nonpool plant during the same month, if the receipt of bulk fluid milk products and return of packaged fluid milk products occur during an interval in which the facilities of the nonpool plant at which the fluid milk products are usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the nonpool plant operator's control;

(b) Packaged fluid milk products received at a pool plant from a nonpool plant in return for an equivalent quantity of bulk fluid milk products moved from a pool plant for processing and packaging during the same month, if the movement of bulk fluid milk products and receipt of packaged fluid milk products occur during an interval in